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INDIGENOUS ISSUES

Report of the working group established in accordance with Commission on Human Rights resolution 1995/32

Chairman-Rapporteur: Mr. José Urrutia (Peru)

Introduction

1. By resolution 1995/32 of 3 March 1995 the Commission on Human Rights decided to establish an open-ended inter-sessional working group of the Commission on Human Rights with the sole purpose of elaborating a draft declaration, considering the draft contained in the annex to resolution 1994/45 of 26 August 1994 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities entitled "Draft United Nations declaration on the rights of indigenous peoples" for consideration and adoption by the General Assembly within the International Decade of the World's Indigenous People. This decision was endorsed by the Economic and Social Council in its resolution 1995/32 of 25 July 1995.

2. The working group held 6 formal meetings and 16 informal plenary meetings during the period 27 October-7 November 1997. A total of 346 people attended the meetings of the working group, including 45 Governments and 123 indigenous and non-governmental organizations.

3. This report contains a record of the general debate and the articles of the draft declaration which were adopted by consensus at first reading. The debate which took place in the informal plenary meetings is not reflected in this report. For full and authoritative versions of the interventions, reference should be made to the statements of the representatives, as given. Many delegations made copies of their interventions available to the working group.

4. This report is solely a record of the debate and does not imply acceptance of the usage of either the expression "indigenous peoples" or "indigenous people". In this report both terms are used without prejudice to the positions of particular delegations, where divergences of approach remain.

5. The working group was opened by a representative of the Office of the United Nations High Commissioner for Human Rights.

6. At its first meeting, the working group unanimously reelected Mr. José Urrutia (Peru) as its Chairman-Rapporteur.

Documentation

7. The working group had before it the following documents:

Provisional agenda (E/CN.4/1997/WG.15/1);

Draft report of the working group established in accordance with Commission on Human Rights resolution 1995/32 of 3 March 1995 (E/CN.4/1997/WG.15/CRP.1-2);

Provisional and final list of participants (E/CN.4/1997/WG.15/Misc.1 and E/CN.4/1997/WG.15/INF.1).

8. The following background documents were made available to the working group:

Technical review of the United Nations draft declaration on the rights of indigenous peoples: note by the secretariat (E/CN.4/Sub.2/1994/2);

Draft declaration on the rights of indigenous peoples as agreed upon by the members of the working group at its eleventh session (E/CN.4/Sub.2/1994/2/Add.1);

Sub-Commission on Prevention of Discrimination and Protection of Minorities resolution 1994/45 on the draft United Nations declaration on the rights of indigenous peoples (annex).

Commission on Human Rights resolution 1995/32 on the establishment of a working group of the Commission on Human Rights to elaborate a draft resolution in accordance with paragraph 5 of General Assembly resolution 49/214 of 23 December 1994;

Commission on Human Rights resolution 1997/31 on the working group of the Commission on Human Rights to elaborate a draft declaration in accordance with paragraph 5 of General Assembly resolution 49/214 of 23 December 1994;

Report of working group established in accordance with Commission on Human Rights resolution 1995/32 on its second session (E/CN.4/1997/102).

Participation in the session

9. The following States members of the Commission on Human Rights were represented: Argentina, Austria, Bangladesh, Brazil, Canada, Chile, China, Colombia, Cuba, Denmark, El Salvador, Egypt, Ethiopia, France, Germany, India, Indonesia, Japan, Malaysia, Mexico, Netherlands, Pakistan, Philippines, Russian Federation, South Africa, United Kingdom of Great Britain and Northern Ireland, United States of America and Uruguay.

10. The following States Members of the United Nations were represented by observers: Australia, Bolivia, Costa Rica, Estonia, Fiji, Finland, Guatemala, Honduras, Kenya, New Zealand, Norway, Peru, Poland, Spain, Sudan, Sweden and Venezuela.

11. The following non-member States were represented by observers: Holy See and Switzerland.

12. The following specialized agencies were represented by observers: International Labour Organization and World Health Organization.

13. The following intergovernmental organization was represented by an observer: European Commission.

14. The following non-governmental organizations in consultative status with the Economic and Social Council were represented by observers:

General consultative status

Franciscans International.

Special consultative status

Aboriginal and Torres Strait Islander Commission, Commission of the Churches on International Affairs of the World Council of Churches, Friends World Committee for Consultation (Quakers), Indigenous World Association, International Centre for Human Rights and Democratic Development, International Federation of Human Rights Leagues, International League for the Rights and Liberation of Peoples, International Organization of Indigenous Resource Development, International Indian Treaty Council, International Service for Human Rights, International Work Group for Indigenous Affairs, Inuit Circumpolar Conference, Mani Tese '76, National Aboriginal and Islander Legal Services Secretariat, North South XXI, Society for Threatened Peoples, Treaty Four, Women's International League for Peace and Freedom and World Council of Indigenous Peoples.

Roster

Grand Council of the Crees, Indian Law Resource Centre, International Association of Educators for World Peace, International Federation for the Protection of the Rights of Ethnic, Religious, Linguistic and other

Minorities, International Human Rights Association of American Minorities, International Peace Bureau, Minority Rights Group, Sami Council and World Organization against Torture.

15. The following organizations of indigenous people accredited in accordance with Commission on Human Rights resolution 1995/32 were represented by observers:

Aboriginal and Torres Strait Islander Social Justice Commissioner, Ainu Association of Hokkaido, Ainu Association of Sapporo, Asociación Napguana, Asociación Tea-Amaro Runa, Assembly of First Nations, Association Nouvelle de la Culture et des Arts Populaires, Association of the Shorski People, Black Hills Teton Sioux Nation, Catawba Indian Nation, Chickasaw Nation, Comisión Coordinadora de Organizaciones y Naciones Indígenas del Continente, Comisión Internacional de Derechos de los Pueblos Indígenas de Sud América, Comisión Jurídica de los Pueblos de Integración Tahuantinsuyana, Comisión Jurídica para el Autodesarrollo de los Pueblos Originarios Andinos, Confederacy of Treaty Six First Nations, Consejo de Todas las Tierras, Cordillera Peoples Alliance, Delegados Indígenas de Sur- y Centroamérica, Federation des Organisations Amérindiennes de Guyane (Provisional), Finno-Ugric Peoples Consultation Committee, Foundation for Aboriginal and Islander Research Action (Provisional), Ikce Wicasa Ta Omniciye, Indian Confederation of Indigenous and Tribal Peoples, Indigenous Initiative for Peace, Indigenous Woman Aboriginal Corporation, International Alliance of Indigenous Tribal Peoples of the Tropical Forests, Ka Lahui Hawaii, Kimberley Land Council, L'Auravetl'an Foundation, Louis Bull Cree Nation, Lumad Mindanaw Peoples Federation, Mohawk Nation Council of Chiefs, Moviemiento Indeo "Tupaj Amaru", New South Wales Aboriginal Land Council, Ngaiterangi Iwi Incorporated Society, Organisation for Survival of Illaikipiak Indigenous Maasai Group Initiatives, Organización Mapuche de Chile, Te Whanau Rongomaiwahine Trust Inc.

ORGANIZATION OF WORK

16. In his opening statement, at the 1st meeting, the Chairman-Rapporteur said that it was his hope that the working group would be able to adopt some articles during the third session. He expressed the view that it was important for the working group to present tangible results to the fifty-fourth session of the Commission on Human Rights. He also said that it was still necessary to hold consultations with Governments and indigenous representatives in order to define the methods of work of the third session.

17. At the 2nd meeting, the provisional agenda (E/CN.4/1997/WG.15/1) was adopted.

18. Also at the 2nd meeting, the Chairman-Rapporteur informed the working group about his consultations with Governments and indigenous peoples' representatives. On the basis of those consultations, he proposed that the session begin with a general debate in a formal plenary meeting, in order to give the opportunity to make general statements to those delegations which had not been able to do so at previous sessions. Otherwise, formal meetings should be limited to the adoption of articles agreed upon by consensus in informal plenary meetings. In this connection, he proposed that, following the debate, the working group start informal meetings and consider some articles of the draft declaration article by article. He proposed starting with 13 articles in the following order: 15, 16, 17, 18, 43, 5, 14, 44, 45,

1, 2, 12, 13. In dealing with each article, the working group should first consider the principles underlying the article, then the text itself. Furthermore, the Chairman said that, in accordance with the results of his consultations, the working group could hold a discussion on the principles of article 3 on 30 and 31 October 1997.

19. The proposals for the organization of work were approved by the working group.

GENERAL DEBATE

20. The observer for the Sub-Commission on Prevention of Discrimination and Protection of Minorities listed the references that had to be taken into account in the drafting of the declaration. These were, inter alia, the Charter of the United Nations; all the juridical instruments in the field of human rights that the United Nations and its specialized agencies had drafted and adopted; every pertinent provision in international humanitarian law; the paragraphs relating to indigenous peoples' issues in the Rio and Vienna Declarations; declarations of the indigenous peoples themselves, as well as relevant domestic law. All the most recent trends in international law had also to be taken into account. In view of the fact that all those aspects had been taken into account and that the main objective of the declaration was to ensure the physical and cultural survival of indigenous peoples, it would be advisable to adopt the declaration at the present session.

21. The observer for the Movimiento Indio "Tupaj Amaru" highlighted the risk represented by prolonging the discussions for such a long time. He stressed the need for indigenous organizations to be put on an equal footing with Governments in the drafting of the declaration in order to avoid their being excluded from the process. The declaration should also be thought of in a dynamic way, thus reflecting all the economic and political changes that characterized today's world. The static position of some Governments represented a risk for the development of such an important tool, whose provisions should depend on a democratic vote instead of consensus. The representative also submitted some proposals for inclusion in the declaration.

22. The observer for the Cordillera Peoples Alliance stated that the draft declaration constituted a minimum standard for the protection of the rights of indigenous peoples and called upon the working group to adopt the text as it stood. She also expressed some concerns regarding the participation of indigenous peoples in the forum and raised the issue of accreditation which had become a serious obstacle for many Asian organizations.

23. The observer for the Comisión Jurídica para el Autodesarrollo de los Pueblos Originarios Andinos highlighted the seriousness of the situation that many indigenous peoples faced all over the world and, consequently, the need for the declaration to be adopted in its present form as soon as possible. The declaration, which already embodied all the expectations and hopes of indigenous peoples, would thus constitute the right international juridical framework for the fundamental rights of indigenous peoples to be finally acknowledged and respected.

24. The observer for the Consejo de Todas las Tierras stressed the urgency of adopting the declaration in order to protect indigenous peoples' rights. Although the declaration was to be the main achievement of the programme of

the International Decade of the World's Indigenous People, the draft was still under discussion and he expressed his concerns about the delay. Also, he noted with disappointment that article 3 - a cornerstone of indigenous rights - was not the first article to be discussed. Nonetheless, he reiterated the importance of the discussions, which should be open and explorative, and stated that the debate should be seen as a first rather than a final step towards the protection of indigenous peoples' rights.

25. The observer for the Foundation of Aboriginal and Islander Research Action, in a joint statement with all indigenous organizations from Australia, stressed the need for indigenous peoples to participate as equal partners in all aspects of the drafting of the declaration. The most fundamental principle underpinning the entire declaration on which all the other provisions would rest, was the right of self-determination. The declaration was the floor, not the ceiling, of indigenous peoples' aspirations and entitlements and the integrity of the document had to be defended. He recalled the General Recommendation adopted by the Committee on the Elimination of Racial Discrimination on 18 August 1997, in which it called upon all States parties to the Convention to ensure that no decisions directly relating to indigenous peoples' rights and interests taken without their informed consent, and to recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources. He welcomed the statement made the previous year by the representative of Canada on article 3 and encouraged all Governments to engage in a dialogue with indigenous peoples.

26. The observer for the International Indian Treaty Council stated that the draft was the minimum standard for promoting and protecting the rights of indigenous peoples and urged all Governments to adopt it without amendments. That applied in particular to the concept of "peoples" as expressed in article 3 of the draft.

27. The observer for the Assembly of First Nations reiterated the importance of the right to self-determination and the need to facilitate its implementation. He also stated that the draft declaration constituted a minimum standard for the promotion and protection of the rights of indigenous peoples. He acknowledged the progress achieved with the Government of Canada, especially its recognition that the indigenous peoples of Canada had a right to self-determination, and encouraged all Governments and indigenous peoples to engage in similar fruitful dialogues.

28. The observer for the Fédération des Organisations Amérindiennes de Guyane reiterated the importance of the right to self-determination. He stated that cultural diversity should not be seen as a negative element but as an opportunity to give indigenous peoples a chance to play an active role. He called upon all Governments, in particular, France to engage in a dialogue with indigenous peoples all over the world and to adopt the draft as it stood.

29. The observer for the Delegados Indígenas de Sur- y Centroamérica in a joint statement, expressed disappointment at the decision to postpone the discussion on article 3, a cornerstone of the draft declaration. The implementation of the fundamental principles included in all United Nations instruments, like peace and development, depended on the acknowledgment of the right to self-determination which, consequently, should be considered as a priority.

30. The observer for the Association Nouvelle pour la Culture et les Arts Populaires, stated that although the General Assembly had seen the draft declaration as a further step in the acknowledgment and protection of the rights of indigenous peoples, the draft declaration could only represent minimum universal standards for the rights of indigenous peoples and should therefore not be weakened. Any attempt to alter the draft would contradict the principles of human rights as recognized by the United Nations in all its instruments. The observer further brought to the attention of the working group several recent meetings: the Second Meeting for Humanity, held in Madrid, Spain in July 1997; the First Amazigh World Congress, held in Tafira-Las Palmas, Spain, in August 1997; and the Twelfth World Congress of Lawyers, held in Meknès, Morocco, in September 1997, at which 358 signatures were collected in support of a petition for the adoption of the declaration on the rights of indigenous peoples before the end of 1997. He also presented the working group with the petition.

31. The observer for the L'Auravetl'an Foundation reiterated that the draft declaration constituted a minimum standard for the protection of the rights of indigenous peoples and called upon the working group to adopt the text without changes.

32. The observer for the International Work Group on Indigenous Affairs also supported adoption of the text as it stood. He further expressed his gratitude to the Governments of Denmark and Fiji for their support for the cause of indigenous peoples.

33. The observer for Indigenous Initiative for Peace also reiterated the importance of adopting the draft without changes. He also affirmed that the right of self-determination, as expressed in article 3 and as reflected in every other provision of the declaration, was fundamental.

34. The observer for Ka Lahui Hawaii stated that indigenous Hawaiians continued to seek changes in the United Nations process for indigenous participation in the inter-sessional working group in order to ensure that those peoples most affected could have every opportunity to express, defend and attain the full measure of their political, civil, social, cultural and economic rights. She also expressed the view that the draft declaration should be considered as an entire document and should therefore be adopted as such, especially as far as the notion of collective rights was concerned. Finally, she expressed disappointment at the decision not to debate article 3 first and stated that indigenous peoples and nations could not come to a consensus on the provisions of the declaration unless consensus was first reached on that critical issue.

35. The observer for the Comisión Internacional de Derechos de los Pueblos Indígenas de Sud América and the observer for the International Association of Educators for World Peace stressed the importance of the right to self-determination which was considered as a principle which could not be divorced from the rest of the provisions of the draft declaration.

36. The observer for the Te Whanau Rongomaiwahine Trust Inc. also highlighted the importance of the right to self-determination. She further stressed the need for the declaration to be adopted in its present form as soon as possible. She expressed the hope that the declaration would be adopted before the end of the Decade.

37. The representative of China expressed the view that it was fundamental to define the term "indigenous people" and provide clearly for the scope of application of the draft declaration. The declaration had often been portrayed as the first of a series of instruments in the protection of indigenous peoples' rights. It was therefore important to reach a clear understanding of the group of people to which the declaration would apply. In arriving at a definition of indigenous people, the following factors should be considered: (a) the issue of indigenous people had emerged under specific historic circumstances; it was mainly the result of the colonial policies pursued by the European countries in other regions of the world, particularly in the Americas and Oceania; (b) before the arrival of the colonialists or foreign dominators, the indigenous people had lived for generations in certain countries or geographical regions and had wholly or partly preserved their own social, economic, cultural and political characteristics; (c) indigenous people must not only identify themselves as such, but must also be recognized by the Government and people of the countries in which they resided. With regard to the issue of self-identification, that self-identification should be exercised through certain legal procedures in the context of national legislation.

38. During the 3rd formal meeting of the working group, held on 4 November 1997, the United Nations High Commissioner for Human Rights, Ms. Mary Robinson, addressed the working group. She apologized for not having been able to attend its opening session, and noted that she was an honorary chieftain of an indigenous people in the United States of America.

39. The High Commissioner emphasized the importance of the procedure, as established by the Commission on Human Rights, which ensured the participation of indigenous organizations not having consultative status with the Economic and Social Council. She said that the working group represented an unusual standard-setting activity by which governmental delegations had an opportunity to talk directly with the beneficiaries of the draft declaration. The presence of indigenous delegations added legitimacy to the working group. She said that the draft declaration in many ways represented the acknowledgment of a new generation of rights: it covered the range of civil, cultural, economic, political and social rights; it drew on the right to development; it recognized, as it stood at present, the individual and collective rights of indigenous peoples. She encouraged all the interested parties to take their time, maintain an open dialogue, and seek the mutual understanding which was the basis of consensus.

40. The High Commissioner recalled that she was the Coordinator of the International Decade of the World's Indigenous People with the responsibility of encouraging action and cooperation on indigenous issues throughout the United Nations system. She informed the working group that an Indigenous Project Team had been established in her Office in order to strengthen its programme in this area.

41. At its 4th formal meeting, the Chairman proposed adoption at first reading of article 43. The following text was adopted by consensus at first reading:

> "All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals".

42. At its 5th formal meeting, the Chairman proposed adoption at first reading of article 5. The following text was adopted by consensus at first reading:

"Every indigenous individual has the right to a nationality".

43. In connection with article 5, the Chairman noted that all States strongly supported the principle that every individual had the right to a nationality. He noted also that a number of States considered the article conferred the same rights as those under article 15 of the Universal Declaration of Human Rights and article 24, paragraph 3, of the International Covenant on Civil and Political Rights. He acknowledged that a number of States said that article 5 must be read as recognizing the right of every indigenous individual to citizenship within the State to which they belonged, consistent with article 15, paragraph 1 of the Universal Declaration and article 24, paragraph 3, of the International Covenant. He observed that a number of States also identified the need, in due course, to clarify the relationship between the rights expressed in this article and the language of article 32 on citizenship and article 9 relating to the right to belong to an indigenous community. The Chairman noted that one State, which shared this view, noted that entitlement to a nationality within the constitutional framework of the State was consistent with its founding document, the Treaty of Waitangi; it was against this background that it understood the meaning of the article. Finally, the Chairman recognized that approval on first reading of article 5 was without prejudice to the discussions still pending on articles 9 and 32, whose contents had a bearing on the interpretation of article 5.

44. The working group held three informal meetings on the principles underlying article 3. At its 6th meeting, the Chairman-Rapporteur summarized the results of the informal meetings as follows:

(a) All States recognized and upheld the principle that all peoples had the right of self-determination, as enshrined in numerous international instruments and recognized by international law. A number of States expressed concern about the implications that an open reference to the right of self-determination might have. States and indigenous representatives considered that it was essential to have a clear understanding of the precise meaning and implications of draft article 3, as this right underpinned other articles in the draft;

(b) Indigenous representatives and some States considered that the inclusion of the right of self-determination was indispensable to the declaration. Indigenous representatives and some States also considered that the right of self-determination must apply on a non-discriminatory basis to all peoples;

(c) States held a number of different positions. A number of States supported the principle contained in draft article 3;

(d) A number of States, while accepting the principle of self-determination of indigenous peoples, required further clarification on the implications of the exercise of this right within the legal and constitutional frameworks of existing States, which should be reflected in the text;

(e) Other States that also supported this principle expressed concern with respect to the implications that a wide recognition of that right in article 3 might have, since it might be inclusive of the right of secession, therefore affecting the territorial integrity and political unity of States. They also expressed the need for these concerns to be reflected in the final version of article 3;

(f) Other States took the position that the peoples entitled to self-determination were understood to be the entire peoples of a State or those who could constitute themselves as a sovereign independent State, and not subnational groups within an existing State;

(g) Some indigenous representatives pointed out that the indigenous peoples they were representing were not aspiring to secede from existing States, and that the right of self determination, as set out in existing instruments, already provided that secession could only be invoked in extreme cases, where the right of self-determination was denied by the State. They stated that article 3 should be adopted as currently drafted, without amendments.

45. The working group held nine informal meetings on the principles underlying articles 15,16, 17 and 18. The Chairman noted that there was broad consensus for the principles underlying those articles. He took note that certain States could adopt the articles of Part IV of the draft declaration as currently drafted. He also acknowledged that other States required further discussion. Furthermore, some governmental delegations had submitted amendments to the text of articles 15, 16, 17 and 18 for discussion at a future session of the working group. Those amendments would be contained in annex I to the Working Group's report. Comments relating to those articles by indigenous peoples' delegations would be contained in annex II. One non-governmental organization proposed amendments to articles 15, 17 and 18 and these would be contained in annex III. The Chairman noted that the annexes were provided for information and were not part of the report.

46. The working group held three informal meetings on the principles underlying articles 14, 44 and 45. The Chairman noted that there was broad consensus on the principles underlying those articles. Many States indicated that they could adopt paragraph 1 of article 14 and article 44 without change. Other States explained that they still had difficulties with the articles and required further clarifications.

Annex I

PROPOSED AMENDMENTS TO ARTICLES 15-18 FOR FUTURE DISCUSSION

Article 15

State	Proposed amendment a/
Australia	Indigenous children have the right to all levels and forms of education of the State on at least the same basis as other members of the national community. All indigenous peoples also have this right and the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning in accordance with applicable education standards established at the appropriate level of government. Indigenous children living outside their communities should, wherever reasonable, have adequate opportunity for ~~have the right to be provided access to~~ education in their own culture and language. States should ~~shall~~ take effecti e measures to provide appropriate resources for these purposes.
New Zealand	Expects to return to discussion of article 15 and the principles and various textual proposals that have been put forward in respect of the article, before moving on with work on other clusters.
United States of America France Japan	Indigenous children have the right to all levels and forms of education of the State on the same basis as other members of the national community. ~~All~~ indigenous peoples~~' also have this right and the right to~~ should be able to establish and ~~control~~ operate their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning. Indigenous children living outside their communities should have ~~the right to be provided~~ reasonable access to education in their own culture and language. ~~States shall take effective measures to provide appropriate resources for these purposes~~.

State	Proposed amendment a/
Canada	Indigenous children have the right to all levels and forms of education of the State on the same basis as the other members of the national community. All indigenous peoples also have this right and the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning and in accordance with applicable education standards. Indigenous children living outside their communities should have ~~the right to be provided~~ reasonable access to education in their own culture and language. States should ~~shall take effective measures to~~ provide appropriate resources for these purposes.
Brazil	Indigenous children have the right to all levels and forms of education of the State. All indigenous people(s) also have this right and the right to (~~establish and control their educational systems and institutions providing~~) education in their own languages, in a manner appropriate to their cultural methods of teaching and learning. Indigenous children living outside their communities have the right to be provided access to education in their own culture and language. States shall take effective measures to provide appropriate resources for these purposes.

* The use of the term "peoples" in the declaration has no implications regarding the right of self-determination or any other rights which may attach to the term under international law.

a/ Proposed additions are underlined; proposed deletions have a line through the text.

Article 16

State	Proposed amendment
Australia	Indigenous peoples have the right to have the dignity and diversity of their cultures, traditions, histories and aspirations appropriately reflected in ~~all forms of~~ education and public information. States should ~~shall~~ take effective measures, in consultation with the indigenous peoples concerned, ~~to eliminate~~ to promote the elimination of prejudice and discrimination and to foster ~~promote~~ tolerance, understanding and good relations among indigenous peoples and all segments of society.
New Zealand	Could accept the wording as it stands. New Zealand understands that the language used in the second paragraph, referring to the elimination of prejudice and discrimination, is not consistent with that used in the International Convention on the Elimination of All Forms of Racial Discrimination. On this basis, New Zealand could support the current drafting of this paragraph, although it considers that the meaning of the second paragraph could be clarified by the use of less absolute language. New Zealand makes this suggestion for the purposes of discussion.
United States of America France	The dignity and diversity of indigenous peoples'* ~~Indigenous peoples have the right to have the dignity and diversity of their~~ cultures, traditions, histories and aspirations should be appropriately reflected in ~~all forms of~~ public education and public information. States shall take appropriate ~~effective~~ measures, in consultation with the indigenous peoples concerned, in order to eliminate prejudice and discrimination and to promote tolerance, understanding and good relations among indigenous peoples* and all segments of society.
Brazil	Proposes that "Indigenous peoples" be replaced by "Indigenous people(s)".

* The use of the term "peoples" in the declaration has no implications regarding the right of self-determination or any other rights which may attach to the term under international law.

Article 17

State	Proposed amendment
Australia	Indigenous peoples have the right to establish their own media in their own languages. They also have the equal right to ~~equal~~ access to all forms of ~~non-indigenous~~ media. States should ~~shall~~ take effective measures, wherever possible, to ensure that State-owned media duly reflect indigenous cultural diversity.
New Zealand	Could accept the wording as it stands. However, the wording "equal rights of access" (replacing "right to equal access") would improve the text by clarifying the objective.
United States of America Japan	Indigenous individuals or peoples* should have the ability ~~right~~ to establish their own media in their own languages to the same extent as other applicants. ~~They also have the right to equal access to all forms of non-indigenous media~~. States should ~~shall~~ take appropriate ~~effective~~ measures, wherever possible, to provide ~~ensure~~ that State-owned media duly reflect indigenous cultural diversity.
Canada	Indigenous peoples have the right to establish their own media in their own languages on the same basis as the other members of the national community. They also have the right to equal access to all forms of non-indigenous media. States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity.
Brazil	Indigenous people(s) have the right to establish their own media in their own languages, in accordance with national legislation and regulations. They also have the right to equal access to all forms of non-indigenous media. States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity.

* The use of the term "peoples" in the declaration has no implications regarding the right of self-determination or any other rights which may attach to the term under international law.

Article 18

State	Proposed amendment
Australia	Indigenous peoples have the right to enjoy fully all rights established under applicable international labour law and national labour legislation. Indigenous individuals have the right not to be subjected to any adverse discriminatory conditions of labour, employment or salary.
New Zealand	Strongly supports the substance and principles. Proposes that the word "applicable" be inserted before "international labour law".
United States of America Japan France	Indigenous individuals, individually and in association with others, ~~peoples~~ are entitled ~~have the right~~ to enjoy fully all rights established under international labour treaties ratified by the State in which they live ~~law~~ and national labour legislation without discrimination on account of their indigenous origin or identity. Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour, employment, salary or related benefits.
Canada	Indigenous peoples have the right to enjoy fully all rights established under applicable international labour law and national labour legislation. States should ensure that indigenous children are protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, health or development. Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour, employment or salary.
Brazil	Indigenous people(s) have the right to enjoy fully all rights established under international labour law and national labour legislation. Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour, employment or salary.

Annex II

COMMENTS RELATING TO ARTICLES 15 TO 18 BY INDIGENOUS DELEGATIONS

Indigenous organizations and delegations attending the third session of the working group supported the texts of articles 15 to 18 as adopted by the Sub-Commission and recommended that they be adopted without amendment. The articles are reproduced below.

Article 15

Indigenous children have the right to all levels and forms of education of the State. All indigenous peoples also have this right and the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.

Indigenous children living outside their communities have the right to be provided access to education in their own culture and language.

States shall take effective measures to provide appropriate resources for these purposes.

Article 16

Indigenous peoples have the right to have the dignity and diversity of their cultures, traditions, histories and aspirations appropriately reflected in all forms of education and public information.

States shall take effective measures, in consultation with the indigenous peoples concerned, to eliminate prejudice and discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all segments of society.

Article 17

Indigenous peoples have the right to establish their own media in their own languages. They also have the right to equal access to all forms of non-indigenous media.

States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity.

Article 18

Indigenous peoples have the right to enjoy fully all rights established under international labour law and national labour legislation.

Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour, employment or salary.

Annex III

COMMENTS BY THE NON-GOVERNMENTAL ORGANIZATION MOVIMIENTO INDIO "TUPAJ AMARU" ON ARTICLES 15, 17 AND 18

Article 15

All indigenous peoples have a collective and individual right to free, comprehensive and diversified education at all levels and in all forms of basic, middle and higher education in their own languages, including bilingual education. They are also entitled to formulate policy for their own education systems and teaching institutions, [and to] manage and administer for themselves the resources assigned to education.

States recognize education as their highest function and agree to orient teaching towards the full development of the human personality, providing sufficient resources to carry out and comply with the provisions of this declaration.

Article 17

Indigenous peoples have the right to establish their own media in their own languages. They also have the right to equal access to all existing mass communications media, [and to] set up radio and television broadcasting networks in indigenous languages with a view to inculcating respect for their identity in indigenous people and fostering friendship among different social groups.

States shall take appropriate action to ensure that State-owned media duly reflect multinational and multicultural diversity.

Article 18

Under the international conventions adopted by ILO, indigenous peoples have the right to pursue their material welfare and intellectual development in dignity. Every indigenous person has the right to work without distinction or discrimination on grounds of his identity, and the right to "equal pay for equal work", to satisfactory health conditions and to social security.

Pursuant to their labour legislation, States shall take appropriate action to ensure effective protection in matters of hiring and working conditions, especially legal protection for children against illegal exploitation, that might have damaging consequences for their health, education and physical and mental development.

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INDIGENOUS ISSUES

Activities undertaken for the International Decade of the World's Indigenous People

Report of the United Nations High Commissioner for Human Rights

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Introduction

1. The International Decade of the World's Indigenous People was proclaimed by the General Assembly, in its resolution 48/163 to begin, on 10 December 1994. In its resolution 49/214, the Assembly adopted the short-term programme of activities for 1995. In its resolution 50/157, the Assembly adopted the proposed programme of activities for the Decade, giving emphasis to the role of international cooperation for the solution of problems faced by indigenous people in such areas as human rights, the environment, development, education and health; and by its resolution 51/78, the Assembly decided to include in the provisional agenda of its fifty-second session the item entitled "Programme of activities of the International Decade of the World's Indigenous People".

2. One of the objectives of the International Decade of the World's Indigenous People is the adoption of the draft United Nations declaration on the rights of indigenous people, which is currently under discussion in a working group of the Commission on Human Rights. Another objective is the possible establishment of a permanent forum for indigenous people within the United Nations system to serve as a permanent arena for indigenous people to discuss matters of interest to them with Governments and contribute to the promotion of peace and prosperity, in accordance with the Charter of the United Nations. A further objective of the Decade is education as an important means for the solution of problems faced by indigenous people, as well as the promotion and protection of the human and historical rights of those people.

3. In resolution 1997/32, the Commission on Human Rights recommended that the United Nations High Commissioner for Human Rights assume responsibility for coordination of the Decade and requested her to submit an update of the Secretary-General's annual report to the Commission at its fifty-fourth session under the agenda item entitled "Indigenous issues".

I. ACTIVITIES CARRIED OUT IN 1997

4. The Secretary-General's report to the General Assembly on the programme of activities for the Decade (A/52/509) covers the implementation of activities until 30 September 1997; accordingly, additional information on activities for the Decade carried out during the last three months of 1997 is hereby submitted to the Commission on Human Rights.

5. The working group established in accordance with Commission on Human Rights resolution 1995/32 to elaborate a draft declaration on the rights of indigenous people met for the third time from 27 October to 7 November 1997. There was broad participation by representatives of governments, non-governmental organizations and 123 duly authorized indigenous organizations (see E/CN.4/1998/106). At its third session the working group adopted two articles for the draft declaration by consensus at first reading. Substantial progress has been made and there is consensus on many of the draft declaration principles.

6. Pursuant to Sub-Commission on Prevention of Discrimination and Protection of Minorities resolution 1996/37 of 29 August 1996 and Commission

on Human Rights decision 1997/112, the first Technical Meeting on the Protection of the Heritage of Indigenous People was held at the United Nations Office at Geneva in March 1997.

7. The meeting was attended by the Special Rapporteur on the study on the protection of the heritage of indigenous people, Mrs. Erica-Irene Daes and by representatives of the Food and Agriculture Organization of the United Nations (FAO), the International Labour Organization (ILO), the United Nations Development Programme (UNDP), the United Nations Environment Programme (UNEP), the World Intellectual Property Organization (WIPO) and the World Trade Organization (WTO). Its conclusions and recommendations (E/CN.4/Sub.2/1997/15, paras. 26-37) were, inter alia, as follows:

(a) The Technical Meeting on the Protection of the Heritage of Indigenous People was considered very important and useful by all participants. It is important that agencies and bodies of the United Nations system coordinate and harmonize their efforts in relation to the protection of the heritage of the world's indigenous people;

(b) The study of the draft principles and guidelines on the protection of the heritage of indigenous people elaborated by the Special Rapporteur constitutes a valuable contribution to the protection of indigenous cultural and intellectual property. The Special Rapporteur will continue to collect information for the report which she will submit annually to the Sub-Commission and to the Commission on Human Rights. It is emphasized that the heritage of indigenous cultures should not be destroyed.

8. The Voluntary Fund for the International Decade of the World's Indigenous People was established pursuant to General Assembly resolution 49/214 with the purpose of financing projects and programmes during the Decade and strengthening international cooperation for the solution of problems faced by indigenous people. In conformity with General Assembly resolution 50/157, an advisory group of the Fund was established to assist the Coordinator for the Decade.

9. Between 1 January and 30 November 1997, the Voluntary Fund received contributions from the following Governments: Canada (4 March 1997), US$ 10,799; Denmark (7 January 1997), US$ 168,186; Fiji (9 January 1997), US$ 3,000; Greece (3 June 1997), US$ 3,000; Japan (31 March 1997), US$ 50,000; and Sweden (14 August 1997), US$ 61,633. Generous contributions were also made by the following non-governmental organizations: Alliance of Taiwan Indigenous Culture (22 October 1997), US$ 300; and Intuition Music, Inc., DBA Sequoia records, US$ 550 (in 11 monthly instalments). Appreciation is expressed to the contributors to the Fund for the Decade, and the importance of increasing contributions to enable more activities to be carried out jointly with indigenous people is emphasized.

10. The fellowship programme for indigenous people at the Office of the United Nations High Commissioner for Human Rights offers six-month fellowships in Geneva which include training and practical work on human rights and on the United Nations system. The first group of fellows received training from 1 June to 31 December 1997. The results are very satisfactory, both for the fellows and for the Office of the High Commissioner for Human Rights;

lessons have been drawn from the first group's experience and this will be of great benefit for indigenous people and the future development of its programme.

11. On 10 and 11 November 1997 an inter-sessional meeting was held with three members of the Advisory Group of the Voluntary Fund for the Decade, who had attended the third session of the working group on the draft declaration on the rights of indigenous people. The Advisory Group made an evaluation of the fellowship programme and considered fellowship applications for 1998. The Group heard the views of the fellows and of the staff in the Office of the High Commissioner responsible for the programme. Taking into account the various assessments of the fellowship programme for indigenous people, it recommends that the Office of the High Commissioner for Human Rights continue the programme in conformity with General Assembly resolution 50/157.

12. The deadline for 1998 applications was 1 September 1997. The Advisory Group considered a total of 94 applications for the fellowship programme from 34 countries and agreed to recommend that the High Commissioner award fellowships from 1 June to 31 November 1998 to four applicants from the following indigenous organizations: American Indian Movement of Colorado, United States of America; Ngai Tahu Maori Law Centre Inc., New Zealand; Association des Femmes Réfugiées de Azawad, Burkina Faso; and Kuna Youth Movement, Panama.

13. The fellowship programme enters its second year of operation with the selection of the above four fellows from four regions of the world ensuring a gender balance: in 1997 three of the fellows were male and one female, and in 1998 three are female and one male; all of them having extensive experience of working in their respective organizations. The possibility of increasing the number of fellowships is being explored with institutions and Governments wishing to co-sponsor the programme with the United Nations by funding their own fellows under the established selection procedure. This indicates that the fellowship programme for indigenous people in the Office of the High Commissioner for Human Rights may be expanded.

14. In its resolution 1996/34, the Sub-Commission on Prevention of Discrimination and Protection of Minorities recommended that the Office of the United Nations High Commissioner for Human Rights organize a workshop of indigenous journalists, with the participation of appropriate departments of the United Nations and other relevant institutions and persons, in order to improve dissemination of information about the United Nations and its activities relating to indigenous people. In its resolution 1997/15, the Sub-Commission expressed its appreciation to the Government of Spain for its offer to host a workshop of indigenous journalists in Madrid at the beginning of 1998.

15. The Office of the High Commissioner arranged, in consultation with the Government of Spain, for the workshop to be held in Madrid from 26 to 28 January 1998. The workshop is intended to provide an opportunity for indigenous journalists working in the mass media to meet and discuss a variety of problems focussing on three areas of concern: How can indigenous issues be dealt with in the mainstream media? How can the indigenous media -

newspapers, radio and television - be developed and strengthened? What is the role and responsibility of the indigenous media as an intermediary between the international community/United Nations and indigenous communities?

16. The Voluntary Fund for the Decade will defray the travel and subsistence expenses for 12 indigenous professional journalists from various the world; other indigenous journalists, competent United Nations bodies and non-governmental organizations will also participate. In all, 50 media professionals will attend the workshop.

17. A workshop to discuss the implementation of article 8 (j) of the Convention on Biological Diversity in relation to indigenous people was held from 24 to 28 November 1997 in Madrid. The Office of the United Nations High Commissioner for Human Rights cooperated, through its representative, in preparing and organizing this important meeting.

18. Discussions between representatives of indigenous people and Governments on article 8 (j) of the Convention addressed the issue of the important contribution of the knowledge of indigenous people to protecting biodiversity for the benefit of mankind, as well as the benefits to be derived by indigenous people from the right to protection of such knowledge. The workshop will propose to the Conference of the Parties various options for a programme of work to implement article 8 (j) and other related articles, together with suggestions for a possible body or working group to ensure participation by indigenous people in future work.

19. The first meeting of the Advisory Group of the World Health Organization (WHO) indigenous peoples and substance use project was held in September 1997 in New York; the project's aim is to prevent or minimize the risks of and damage relating to psychoactive substance use, mainly among indigenous communities. The Office of the United Nations High Commissioner for Human Rights was invited to participate in the meeting.

20. At its first meeting the Advisory Group identified the project's goals and the need to set up an indigenous team for the project within the WHO structure and the possible implementation of six pilot projects in the following indigenous communities: (i) Anka Hill Tribe, Thailand; (ii) Masai community, Kenya; (iii) Tonga community, Tonga; (iv) Chechua community, Argentina; (v) Chukotkan community, Siberia, Russian Federation; and (vi) Miskito community, Nicaragua. A training workshop for persons engaged in these projects will be held in February 1998 in New Zealand. The Office of the United Nations High Commissioner for Human Rights supports this international effort by indigenous people in the sphere of health and would be prepared to participate therein in view of its experience of working with indigenous people within the United Nations system.

Non-governmental organizations

21. The Office of the United Nations High Commissioner for Human Rights was invited to participate in a meeting organized by the Kanak indigenous people of New Caledonia in the Pacific region, in September 1997. The participating delegate reported to the meeting on United Nations activities in respect of indigenous people, and in particular on the work of the Working Group on

Indigenous Populations, the Working Group elaborating a draft declaration on the rights of indigenous people and the programme of activities of the International Decade of the World's Indigenous People. The meeting of the Kanak people helped to encourage indigenous participation from this region in the work of the United Nations system with indigenous people.

22. At the fifteenth session of the Working Group on Indigenous Populations, in July 1997, the indigenous delegates present decided to set up a committee on indigenous health to ensure that health remains a priority issue on the Working Group's agenda and that indigenous people are involved in the development of indigenous health initiatives and policies. The Committee submitted its first report to the High Commissioner in October 1997.

23. The Advisory Board of the International Training Center of Indigenous Peoples (ITCIP) met from 5 to 8 December 1997 at Copenhagen and decided that the first ITCIP training course for indigenous people would take place in the summer of 1998 at the Katuaq Cultural Centre in Nuuk, Greenland. ITCIP has the support of the Board of Katuaq Cultural Centre, Greenland Home Rule, the Minister for Foreign Affairs of Denmark, the Director-General of the United Nations Educational, Scientific and Cultural Organization (UNESCO), the Ford Foundation and representatives of indigenous organizations and human rights specialists.

24. As part of the celebrations of the Swiss National Day on 1 August 1997 the Geneva City Council held an open-air reception in the evening for indigenous participants at the fifteenth session of the Working Group on Indigenous Populations. At the ceremony, gifts were exchanged and welcoming speeches and expressions of gratitude to the Geneva authorities were made before a large local audience. The ceremony coincided with the twentieth anniversary of the first conference of non-governmental organizations on discrimination against indigenous people, held at the Palais des Nations, Geneva in September 1977. On that occasion, 20 years ago, the indigenous delegations had also been received by the then Mayor of Geneva.

25. At the fifteenth session of the Working Group on Indigenous Populations, in the context of the International Decade of the World's Indigenous People and under the aegis of the Government of France, the pupils of the Parc Bellevue school in Marseilles organized a major exhibition of photographs of the Dakota indigenous people of the United States of America, taken during a cultural visit to the Dakota people by pupils from the school. The exhibition was highly appreciated by the participants in the Working Group as it reflected the schoolchildren's interest in the culture and rights of indigenous people.

II. FINAL COMMENTS

26. Governments and indigenous organizations are invited to continue making significant progress and achieving consensus on the principles of the draft declaration on the rights of indigenous people as one of the objectives of the Decade.

27. Gratitude is expressed to the contributors to the Voluntary Fund for the Decade and the importance of increasing contributions in order to undertake

more activities jointly with indigenous people is emphasized. It is important for indigenous people that the Office of the United Nations High Commissioner for Human Rights should continue the fellowship programme for indigenous people, in conformity with General Assembly resolution 50/157, together with the other programme activities for the International Decade of the World's Indigenous People.

28. The importance of supporting and strengthening the project being implemented by the World Health Organization among indigenous communities is emphasized as one of the aims of international cooperation for the solution of problems faced by indigenous people in such areas as human rights, the environment, health, development and education.

29. The importance of the principles and guidelines for the protection of the heritage of indigenous people (E/CN.4/Sub.2/1995/26, annex) and of preventing the destruction of that heritage is underscored.

30. The Working Group on Indigenous Populations will focus at its sixteenth session in July 1998 on the topic "Indigenous peoples: education and language", and invites experts in this field to participate and share their valuable experience for the benefit of indigenous people and society as a whole.

31. It is suggested that the actors involved in the Programme of activities for the International Decade of the World's Indigenous People, particularly governments, indigenous organizations, non-governmental organizations and other participants, should submit annual information on their activities during the Decade to the Office of the United Nations High Commissioner for Human Rights and assess the progress of the Decade. At present, little information in this respect is being received.